

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-032-02-1-5-00504  
**Petitioners:** Roger A. & Carole A. Ladd  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 009-20-13-0572-0057  
**Assessment Year:** 2002

The Indiana Board of Tax Review (the "Board") issues this determination in the above matter, and finds and concludes as follows:

### Procedural History

1. The informal hearing as described in Ind. Code § 6-1.1-4-33 was held on January 6, 2004 in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$177,200 and notified the Petitioners on March 26, 2004.
2. The Petitioners filed a Form 139L on April 23, 2004
3. The Board issued a notice of hearing to the parties dated November 15, 2004.
4. A hearing was held on December 15, 2004, in Crown Point, Indiana before Special Master Peter Salvesson.

### Facts

5. The subject property is located at 3023 Burge Drive, Crown Point, St. John Township
6. The subject property is a single-family home on 0.251 acres of land.
7. The Special Master did not conduct an on-site visit of the property
  - a) Assessed Value of subject property as determined by the DLGF:  
Land \$32,000                      Improvements \$145,200
  - b) Assessed Value requested by Petitioners:  
Land \$32,000                      Improvements \$120,000
8. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.

9. Persons sworn in at hearing:

For Petitioners: Roger A. Ladd, Owner

For Respondent: John Toumey, Representative for the DLGF

**Issues**

10. Summary of Petitioners' contentions in support of an alleged error in the assessment:

- a) The subject property should be classified as a raised ranch rather than a bi-level. *Ladd argument; Petitioner Ex. 1.* When the Petitioners enter their home through the front door, they must go either upstairs or downstairs to get to a living area. *Ladd testimony.*
- b) The total assessment of the subject property should be \$142,000 - \$152,000. *Ladd argument.*
- c) Petitioners' estimated "asking price" for the subject property would be \$170,000. *Ladd testimony; Board Ex. A.*
- d) A home on the same street as the subject sold for \$25,000 less than the amount for which the subject property is assessed. *Ladd testimony.*

11. Summary of Respondent's contentions in support of the assessment:

- a) Photographs of the home, as well as Petitioners' description of his home, show that the subject dwelling is a bi-level. *Toumey testimony; Respondent Exs. 3, 6.*
- b) All raised ranches were treated as bi-levels during for the reassessment, and even if the subject property were to be redefined as a raised ranch, the method used to assess the subject property would be the same. *Toumey testimony.*
- c) A comparable property sales report supports the current assessment. *Id; Respondent Ex. 4.* An appraisal valued the subject property at \$172,000 as of November 11, 1998. *Toumey testimony; Respondent Ex. 7.* The time-adjusted January 1, 1999 value is \$173,000. *Toumey testimony.*

**Record**

12. The official record for this matter is made up of the following:

- a) The Petition.
- b) The tape recording of the hearing labeled BTR #1117.

c) Exhibits:

Petitioner Exhibit 1:	Real Property Assessment – Glossary of Terms
Respondent Exhibit 1:	Form 139L Petition
Respondent Exhibit 2:	Subject Property Record Card
Respondent Exhibit 3:	Subject Property Photograph
Respondent Exhibit 4:	Comparable Sales Sheet
Respondent Exhibit 5:	Comparable Property Record Cards & Photos
Respondent Exhibit 6:	Height Design
Respondent Exhibit 7:	Appraisal of Subject Property
Board Exhibit A:	Form 139L Petition
Board Exhibit B:	Notice of Hearing
Board Exhibit C:	Sign-In Sheet

d) These Findings and Conclusions.

### Analysis

13. The most applicable laws are:

- a) A petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect, and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Bd. of Tax Comm’rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
- b) In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“I[t] is the taxpayer’s duty to walk the Indiana Board . . . through every element of the analysis”).
- c) Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut Petitioner’s evidence. *See American United Life Ins. V. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner’s evidence. *Id.*; *Meridian Towers*, 805 N.E. 2d 479.

14. The preponderance of the evidence demonstrates that the assessment should be reduced to \$172,000. This conclusion was arrived at because:

- a) The Petitioners failed to show that the subject dwelling is improperly classified as a bi-level. Roger A. Ladd testified that a person must walk up or down stairs in order to get to a living area upon entering the subject dwelling. This is consistent with the

description of a bi-level dwelling contained in the Real Property Assessment Guidelines for 2002 – Version A (“Guidelines”), which describe bi-level construction as including “2-level design” with the first floor partially below grade level and an entry or foyer at a level between the first and second floors. REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A, ch. 2 at 12.

- b) The Petitioners also contend that a property located on the same street as the subject property sold for \$25,000 less than the amount for which the subject property is assessed. In presenting such evidence, the Petitioners appear to rely on a sales comparison approach to establish the market value in use of the subject property. *See* 2002 REAL PROPERTY ASSESSMENT MANUAL 3 (incorporated by reference at 50 IAC 2.3-1-2)(stating that the sales comparison approach “estimates the total value of the property directly by comparing it to similar, or comparable, properties that have sold in the market.”); *see also, Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 469 (Ind. Tax Ct. 2005).
- c) In order to use the sales comparison approach as evidence in a property assessment appeal, the proponent must establish the comparability of the properties being examined. Conclusory statements that a property is “similar” or “comparable” to another property do not constitute probative evidence of the comparability of the two properties. *Long*, 821 N.E.2d at 470. Instead, the proponent must identify the characteristics of the subject property and explain how those characteristics compare to the characteristics of the purportedly comparable properties. *Id.* at 471. Similarly, the proponent must explain how any differences between the properties affect their relative market values-in-use. *Id.*
- d) Here, the Petitioners did not engage in any meaningful comparison between the characteristics of the purportedly comparable property and those of the subject property. Consequently, Roger Ladd’s testimony regarding the sale price of the purportedly comparable property lacks probative value.
- e) Nonetheless, the Respondent presented an appraisal estimating the market value of the subject property to be \$172,000 as of November 12, 1998. The appraisal, on its face, was performed in accordance with generally accepted appraisal practices, and it estimates the market value of the subject property as of a date less than two months prior to the relevant valuation date. While the Respondent asserted that the appraised value was \$173,000 if time adjusted to January 1, 1999, it did not explain its methodology for making such an adjustment. The appraisal therefore presents the strongest evidence of the subject property’s true tax value.
- f) Based on the foregoing, the preponderance of the evidence demonstrates that the current assessment is incorrect, and that the correct assessment would be \$172,000.

### **Conclusion**

15. The preponderance of the evidence demonstrates that the current assessment is in error and that the correct assessment would be \$172,000. The assessment should be reduced to \$172,000 in total.

### **Final Determination**

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed.

ISSUED: \_\_\_\_\_

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Commissioner,  
Indiana Board of Tax Review

## IMPORTANT NOTICE

### - APPEAL RIGHTS -

**You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Court Rule 4(B)(2), Indiana Trial Rule 10(A), and Indiana Code §§ 4-21.5-5-7(b)(4), 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Trial Rules are available on the Internet at [http://www.in.gov/judiciary/rules/trial\\_proc/index.html](http://www.in.gov/judiciary/rules/trial_proc/index.html). The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>.**